

INDIVIDUALS WITH DISABILITIES EDUCATION ACT ("IDEA")

20 U.S.C. § 1400

ARIZONA DEPARTMENT OF EDUCATION

IMPARTIAL DUE PROCESS HEARING

Sara J. Vance, Due Process Hearing Officer
14014 North 8th Place, Phoenix, Arizona 85022
phone (602) 938-1810 fax (602) 938-2163

In the Matter of:

GILBERT UNIFIED SCHOOL DISTRICT
("District"),

Petitioner,

v.

[REDACTED] ("Student"), by
and through his parents and legal
guardians [REDACTED]
[REDACTED]

Respondent.

**REVISED EXPEDITED DUE
PROCESS STIPULATION AND
ORDER**

Reference No. 04-001 Exp.

This Revised Expedited Due Process Stipulation and Order ("Revised Order") replaces, and supercedes, in its entirety, the Expedited Due Process Stipulation and Order ("Initial Order"), issued prior hereto on July 22, 2003. After issuance of the Initial Order, Respondent and Petitioner requested reconsideration to clarify certain terms in the Order, pursuant to letters to the undersigned Hearing Officer. Those requests are granted to the extent reflected in this Revised Order.

On Friday, July 18, 2002, Petitioner District filed a brief request for an expedited due process hearing, and on Monday, July 21, 2003, District filed a more complete request for an expedited due process hearing under the Individuals with Disabilities Education Act ("IDEA"), the regulations promulgated thereunder, and pursuant to A.A.C. R7-2-405(I) [collectively, "Expedited Due Process Request"]. District sought an order that Student be educated in an appropriate, alternative educational setting during the pendency of a separate special education due process matter involving District and Respondent ("Existing Due Process"). Respondent first received notice of the Expedited Due Process Request on Monday, July 21, 2003.

Also on Monday, July 21, 2003, the undersigned Hearing Officer was appointed in this matter. The Hearing Officer, counsel for the parties and Ms. Tommi Pierce, Special Programs Director for District, held several pre-hearing telephone conferences on Monday, July 21, 2003, and the parties stipulated to a resolution of this expedited due process as set forth herein.

The Existing Due Process is based on a due process request made by Respondent. The hearing in the Existing Due Process is scheduled for August 15, 2003, and the Hearing Officer in the Existing Due Process, Ms. Eileen Bond ("Hearing Officer Bond"), expects to render a final decision in the Existing Due Process on September 8, 2003.

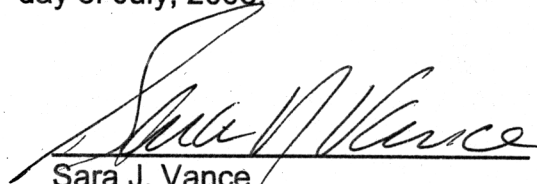
Classes will resume for District on August 14, 2003, and Student would not attend classes at District's schools prior to August 14, 2003. Based on the terms stipulated to by the parties, Respondent indicated that Student will be receiving educational services outside of District's schools when classes resume. Thus, Student's education will not be adversely affected by this Stipulation and Order. Additionally, District's asserted safety concerns will be addressed by the resolution of this matter as set forth herein.

Based on the stipulation of the parties and the best interests of District and Student, IT IS HEREBY ORDERED:

- (1) From August 14, 2003, through the date that Hearing Officer Bond issues an impartial due process hearing decision and order ("Hearing Decision") in the Existing Due Process ("Hearing Pendency Period"), Student shall not attend school in the District's school system. During the Hearing Pendency Period, District shall not seek an alternative educational setting for Student.
- (2) Respondent waives any rights against District for compensatory education for the Hearing Pendency Period.
- (3) This Revised Order is not intended to, and shall not be construed to, waive Respondent's rights to stay put under IDEA, 20 U.S.C. § 1415 (j); 34 C.F.R. § 300.514(a), and related Arizona law. This Revised Order shall also not constitute an agreement by Respondent with regard to Student's placement that could waive Respondent's rights to stay put; provided, however, that Student has waived any right to attend school in the District's school system during the Hearing Pendency Period, and District has waived any right to seek an alternative educational setting for Student during the Hearing Pendency Period, and these waivers are irrevocable.
- (4) This Order shall be effective through the Hearing Pendency Period.

- (5) This Order shall effectively constitute a withdrawal by Petitioner District of, and a final resolution of, Petitioner's Expedited Due Process Request dated July 18, 2003, and as supplemented on July 21, 2003. The parties shall have no further rights to seek relief in this expedited due process proceeding after the date of this Revised Order.

Ordered this 22nd day of July, 2003.


Sara J. Vance
Due Process Hearing Officer

Faxed this 22nd day of July, 2003, to:

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